



CITY OF EVERETT

Community, Planning & Economic Development Department
Planning Division

STAFF REPORT TO THE HEARING EXAMINER

REPORT SUMMARY

PROJECT #	REVIII 21-001
PROJECT NAME	Everett Pilot Shelter Community
REPORT DATE	June 3, 2021
HEARING DATE	June 10, 2021
REQUESTS	Approval of a temporary shelter pilot project
LOCATION	2402 37 th Street
APPLICANT	Everett Gospel Mission c/o John Hull
PROPERTY OWNER	City of Everett
ZONE	LI1, Light Industrial 1
SEPA DETERMINATION	The City of Everett Community, Planning & Economic Development Department was the Lead Agency responsible for conducting the environmental review on this project. A Determination of Non-Significance (DNS), Exhibit 7 with the Environmental checklist, Exhibit 8 were issued on May 17, 2021.
STAFF CONTACT	Steve Ingalsbe / singalsbe@everettwa.gov / 425.257.7135
STAFF RECOMMENDATION	Approve with conditions
REVIEW AUTHORITY	Review Process III is a discretionary review process in which the land use hearing examiner may approve, approve with conditions, modify, or deny an application based upon the requirements of the city's comprehensive plan, land use regulations, other applicable city ordinances or regulations, or any other applicable regulations administered by federal, state, regional, or local agencies, as set forth in EMC 15.02.080.A. A public hearing is required for a Review Process III.

PROJECT OVERVIEW

BACKGROUND	The site is currently vacant and was formerly used as log storage.
PROPOSAL	The proposal includes the placement of 20 temporary "Pallet" brand shelters with a potential of expanding that number up to a maximum of 54 shelters to house homeless persons, 1 shelter for a staff site manager, 2 shipping containers for storage, 3 portable toilets, and an 8-foot tall fence surrounding the proposed structures on a 1.5 acre vacant site. The site is just east of the Everett Gospel Mission and will be accessed via 37th Street.



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EXHIBIT

TITLE 19,
ZONING
REGULATIONS

Table 5-1 in EMC 19.05.080 lists *Group housing, temporary shelters which accommodate more than 12 persons* as an unpermitted use in the LI1 zone except as permitted under Note 9. Note 9 states the following: *Pursuant to RCW 35.21.915, a religious organization may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC 19.08.200 and an administrative use permit (REVII).*

The property is owned by the City of Everett but will be under the control of the Everett Gospel Mission, a religious organization. The standards in EMC 19.08.200.B apply to Temporary Outdoor Encampments. The applicable standards, 1-3 and 6.b, 7-13.a-b, 14- 15, are listed below with staff response to each requirement. The applicant's response to these standards are listed in Exhibit 5.

1. *Applicability. These standards apply to any temporary outdoor encampment, safe parking area or tiny home community, hereinafter referred to as "temporary encampments," meeting the frequency and duration standard in subsection (B)(2) of this section.*

Staff Response: The proposed Everett Pilot Shelter Community project is classified as a "Group housing, temporary shelter" use. "Group housing, temporary shelter" is defined as "a shelter providing temporary housing accommodations (ninety days or less) that includes a sponsor and managing agency, the primary purpose of which is to provide temporary shelter for people experiencing homelessness in general or for specific populations of the homeless, or temporary shelter for people experiencing domestic violence. **In addition to shelters which provide shelter for up to ninety days, temporary shelters may also include temporary building encampments, temporary safe parking areas, temporary outdoor encampments or vehicle resident safe parking for the homeless, and temporary tiny house encampments.**"

The use falls under Group housing, temporary shelter as a temporary building encampment as bolded above. The shelters, called Pallets, are buildings that are 8' X 8' and designed to provide sleeping facilities for up to two people. Each shelter will have lighting, a heater, a fire extinguisher, a door with a lock, and windows. Exhibit 4 is a photo of a Pallet shelter.

2. *Frequency and Duration. Temporary outdoor encampments may be approved for a period not to exceed four consecutive months or six months during any calendar year; provided however, that a separation of ninety days between subsequent or*

established outdoor encampments at a particular site is required. The temporary use permit shall specify a date by which the use shall be terminated.

Staff Response: The applicant has requested a modification from the frequency and duration requirements and seeks to allow continuous operation of this facility for one year with the possibility of continuing the operation until June 30, 2026 if funding is available and the program is a success. The planning department recommends approval of the modification.

3. Encampment Management Responsibility Plan. Prior to or upon filing their land use application, the managing agency and sponsor shall prepare an encampment management responsibility plan, which shall be included with their permit application.

Staff Response: A draft Encampment Management Responsibility Plan has been submitted to the City (see Exhibit 6). This draft may require some minor modifications so as to meet City and County grant requirements.

6. Setbacks.

b. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties in commercial or industrial zones, unless the planning director determines that there is sufficient vegetation, topographic variation, or other site conditions that would justify a lesser setback.

Staff Response: All buildings will be 40 feet or greater from abutting properties as shown on the site plan (see Exhibit 3).

7. Fencing. Sight-obscuring fencing is required around the perimeter of the temporary encampment unless the planning director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.

Staff Response: Fencing has been constructed around the site, although not sight-obscuring. The site is in an isolated location only visible from the Everett Gospel Mission (the host organization) and an industrial storage yard to the south, and the planning director has determined that sight-obscuring fencing is not needed.

8. Lighting. Exterior lighting must be directed downward and contained within the temporary encampment.

Staff Response: The City is installing lighting on the site. This standard will be met.

9. Residents.

a. No children under eighteen are allowed in the temporary encampment. If a child under the age of eighteen attempts to stay at the temporary encampment, the managing agency shall immediately contact Child Protective Services.

b. The maximum number of residents within a temporary encampment is one hundred.

c. All temporary encampment residents must sign an agreement to abide by the code of conduct and acknowledge that failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the temporary encampment by the managing agency.

Staff Response: The applicant proposes to meet these standards as outline in the Management Responsibility Plan. The proposed project will not exceed 100 residents.

10. Off-street Parking. Parking for five vehicles shall be provided.

Staff Response: There is a discrepancy in the parking requirements for this use between EMC 19.08.200.B.10 (five spaces) and 19.34.020 (1 space per 4 bedrooms plus 1 per every 2 employees on shift; minimum two spaces). The applicant has requested a modification from both requirements.

The target population is currently living on the streets, not in their vehicles, and most likely no residents will have vehicles. No additional staff at the Everett Gospel Mission will be hired to manage this facility, so no staff parking will be required either. The planning department recommends approval of the modification.

If the hearing examiner disagrees and requires parking as a condition of approval, staff recommends not paving the parking area due to the pilot/temporary nature of the shelter..

While bicycle parking is not required when five or less spaces are required, there is adequate area to place bicycles at the site.

11. Transit Services.

a. A transportation plan is required which shall include provision for transit services.

b. The temporary encampment shall be located within one-half mile of transit service.

Staff Response: The applicant has requested a modification for relief from the requirement for a transportation plan. As reported in section 10 above, the target

population is currently living on the streets, not in their vehicles, and most likely no residents will have vehicles, meaning no traffic impacts.

The planning department recommends approval of the modification. The city Traffic Engineer has reviewed the request and proposal and agrees that a transportation plan not be required..

The site is within one-half mile of the Everett Station transit center, which provides transit connections throughout the city and region. Full pedestrian facilities are available between the site and Everett Station.

12. Code of Conduct. A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:

- a. No drugs or alcohol are permitted.*
- b. No weapons are permitted.*
- c. No violence is permitted.*
- d. No open flames are permitted.*
- e. No trespassing into private property in the host neighborhood is permitted.*
- f. No loitering in the host neighborhood is permitted.*
- g. Disturbing neighbors is not permitted.*
- h. No verbal abuse, intimidating remarks, yelling or degrading remarks against member(s) of the host or host neighborhood are permitted.*
- i. No verbal abuse, intimidating remarks, yelling or degrading remarks between members of the temporary encampment or managing agency are permitted.*
- j. No littering on the encampment site or in the host neighborhood is permitted; a weekly trash patrol in the host neighborhood shall be required.*
- k. Quiet hours shall be observed daily from nine p.m. to seven a.m.*

Staff Response: The applicant will be required to comply with these standards.

13. Inspections.

- a. The managing agency shall permit inspections of the temporary encampment by the Snohomish health district without prior notice and implement all directives of the health district within the time period specified by the health district.*
- b. The managing agency shall permit access, without prior notice, to the temporary encampment site at all times for the Everett police department and Snohomish County sheriff.*

Staff Response: The applicant will be required to comply with these standards.

14. Managing Agency Responsibilities.

- a. *The managing agency and temporary encampment residents shall ensure compliance with Washington State statutes and the Everett Municipal Code concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials.*
- b. *The managing agency shall appoint a member to serve as a point of contact for the Everett police department. At least one member must be on duty at all times. The names of the on-duty members shall be posted daily.*
- c. *The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. The managing agency will not be conducting the sex offender and warrant checks but will submit to the appropriate agency the verified identification information obtained through such steps. All of the Everett police department's requirements with respect to identified sex offenders or prospective residents with warrants shall be met.*
- d. *The managing agency shall immediately contact the Everett police department if someone is rejected or ejected from the temporary encampment where the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the on-duty member or on-duty security staff, the rejected/ejected person is a potential threat to the community.*
- e. *The managing agency shall permit inspections of the temporary encampment by the city's code compliance officers, building inspector, permit services manager, fire marshal or their designee without prior notice. The managing agency shall implement all directives resulting from such inspections within forty-eight hours of notice.*
- f. *Consistent with the Everett building code, the managing agency may not allow in the encampment, without first obtaining a building permit, any structure, other than tents, canopies or other membrane structures, that is greater than one hundred twenty square feet or provides shelter for more than nine persons.*
- g. *The managing agency and temporary encampment residents shall cooperate with other providers of shelters and services for homeless persons within the city and shall make inquiry with these providers regarding the availability of existing resources.*

Staff Response: The applicant will be required to comply with these standards. The City has installed water and electricity to the site. Each Pallet will have electricity. There will be a drinking fountain in one location near the center of the site. There will be three portable toilets. An Everett Gospel Mission attendant will always be on-site.

15. *Additional Requirements for Applications Requesting Modification of Standards.*

	<p><i>a. The applicant may request in their application for standards that differ from those in this section only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary encampment under the specific circumstances of the application.</i></p> <p><i>b. Requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in EMC Title 15.</i></p> <p><i>c. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant. (Ord. 3774-20 § 5(G) (Exh. 3), 2020.)</i></p> <p>Staff Response: The applicant has requested a modification from the frequency and duration limitations (see section 2 above), off-street parking requirements (see section 10 above), and the transportation plan (see section 11 above). After careful consideration of effects on the health and safety of residents and the community, the [planning department] recommends approval of all three modification requests.</p>
TITLE 15, LAND USE PROJECT REVIEW PROCEDURES	<p>EMC 15.02.140.D requires additional requirements for applications requesting modification of standards for temporary outdoor encampments as follows:</p> <p><i>1. The applicant may apply for a temporary use permit that applies standards that differ from those in Section 19.08.200(B) only where, in addition to satisfying the requirements in Section 19.05.068, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary outdoor encampment, safe parking areas or tiny home communities under the specific circumstances of the application. Such requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in Section 15.02.200.</i></p> <p><i>2. The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by</i></p>

	<p><i>signing a register provided at the hearing. The hearing examiner's decision shall constitute the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County superior court in accordance with Chapter 36.70 RCW.</i></p> <p><i>3. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.</i></p> <p>City Response: The applicant has requested a modification from the frequency and duration limitations (see section 2 above), off-street parking requirements (see section 10 above), and the transportation plan (see section 11 above). After careful consideration of effects on the health and safety of residents and the community, the planning department recommends approval of all three modification requests.</p>
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TEMPORARY USE

<p>TEMPORARY USE REQUIREMENTS</p>	<p>EMC 19.05.068.C requires an applicant to provide the following information for a proposed temporary use as follows:</p> <ol style="list-style-type: none"> <i>1. A completed application on the form provided by the planning department, along with all information requested in that form;</i> <i>2. An irrevocable, signed and notarized statement granting the city permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the city for any expenses incurred by the city in abating the temporary use; and</i> <i>3. Written permission from the owner of the property upon which the temporary use is proposed to be located authorizing the proponent to use the subject property for the stated purposes and time period.</i> <p>Staff Response: Requirements 1 and 3 have been met (Exhibit 5). The site is City owned and the City is responsibility for the setting up and dismantling the Pallet shelters.</p>
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<p>EVALUATION CRITERIA FOR A TEMPORARY USE PERMIT</p>	<p>When evaluating temporary uses, the City shall use the evaluation criteria outlined in EMC <u>19.05.068.D</u>. The Applicant provided narrative statements addressing the evaluation criteria (Exhibit 5). The Applicant's direct responses to the applicable criteria as provided in their Narrative Statements are included below, in addition to staff's findings for the applicable criteria:</p> <p>Criteria for Granting a Temporary Use Permit. The city may grant a temporary use permit only if it finds that:</p> <p><i>1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity; and</i></p> <p>Applicant Response: EGM is proposing a temporary use of the property due east of our Men's shelter and Day Center located at 3711 Smith Ave, Everett, WA 98201. The project would utilize a currently undeveloped parcel of land previously used as log storage. Current adjacent properties include the railroad, a moving company storage site, a sheet metal manufacturing site, and a 100 plus bed homeless shelter serving single adult men experiencing homelessness. The proposed project will assist the city of Everett in relocating individuals experiencing homelessness off of the sidewalks of the Everett Station District and nearby vicinity. It will create a place for these individuals that is safe, stable, and not disturbing the public welfare of the stakeholders of the Everett Station District area. These stakeholders have endured encampments outside their businesses and reduced revenue associated with these unmanaged and unsupported encampments for over a decade. Research around housing stability and experience of other pallet communities show that when individuals living on our streets are stably housed in a supportive community, crime and drug use are reduce in that area. In many cases the Pallet communities become part of the neighborhood and something the area residents support extending beyond the initial pilot timeline. The pallet shelter used are temporary and do not require construction techniques that have long term impacts to the site they are on. In fact, the pallets could be removed in a day and the site remediated in a short period.</p> <p>Staff Response: City staff concurs with the Applicant. This proposed project has been reviewed by City staff including Police and Fire and will reduce the impacts to businesses and interests in the immediate vicinity from unsheltered individuals living on the streets, and will reduce health and safety impacts to the unsheltered population by offering a much safer and healthier place to stay.</p>
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2. *The proposed temporary use is compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity; and*

Applicant Response: Location: Since EGM already operates a shelter on the adjacent parcel, this is an ideal location for a pilot pallet shelter project in the city of Everett. Staff and supportive services are already signed up and serving this population in our current shelter. This project will be a small increase in demand for our staff.

Access: The project is accessed directly from the public right-of-way with existing vehicle and pedestrian access. No modification are required to existing means of circulation.

Traffic: No increase in vehicle traffic is anticipated. The target population are currently living on the streets, not in their vehicles so we do not expect any increase from residents. Traffic from staffing will be very limited as well because EGM will be using currently employed staff already coming to our adjacent facility. Security and support personnel will be parking offsite.

Noise: The project is located directly adjacent to interstate-5 and a highly utilized rail line. Any noise from the site will be drowned out by these loud traffic ways. As mentioned in our Management plan, residents will be asked limit their volume so as not to disturb other residents.

Nuisance: The site will be monitored 24/7 by security who will address potential concerns that come up during the duration of the project. The location is not visible from the street and will be fully fenced in so that only authorized people will be on the property. Experience with other pallet project around the county result reduction of negative community impacts.

Dust Control: There is no need for dust control because the occupancy will not lead to the creation of dust.

Hours of operation: The project will be operated 24/7 just like the shelter directly adjacent. There will be curfew implemented and only residents and authorized staff will be allowed on the site. All other adjacent properties are industrial uses and are not occupied outside or regular business hours. Therefore, there will be no negative impact upon adjacent properties during non-business hours.

Staff Response: The planning department concurs with the Applicant. This proposed project is compatible with existing land uses in the immediate vicinity as it is in close proximity of the existing Everett Gospel Mission to the west, and will not impact Interstate 5, the railroad, or the industrial storage site to the south.

	<p>3. <i>The proposed temporary use is not otherwise allowable in the zone in which it is proposed.</i></p> <p>Applicant Response: Finally, as a temporary outdoor encampment, this project does fall within the allowable use for the zoning, yet the code requires that such a designated use go through the temporary use application process.</p> <p>Modifications Request:</p> <ul style="list-style-type: none"> • 19.05.068.F Frequency and duration of use. <p>This project is being developed in partnership with and funded by the City of Everett. Currently funding for the project is available until August 31st, 2022. The city of Everett will monitor and evaluate the project and determine prior to that date if it will continue the program. Therefore, we are asking for an extension of the permit to June 30, 2024 to allow the city of Everett to determine how long the project serves it's needs.</p> <ul style="list-style-type: none"> • 19.08.200 #10 off street parking requirement. <p>The residents being placed in this program will not have cars. The very limited additional staff to support the program can park on the adjacent EGM campus. The requirement for paved off street parking creates an onerous burden upon the budget of this temporary project. For these reasons we are asking that this requirement be waived.</p> <p>City Response: This use exceeds the duration and frequency limitations. The use is not allowed by EMC <u>19.08.200.B</u> unless approved by the Hearing Examiner.</p>
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PUBLIC NOTICE AND COMMENT

PUBLIC AND AGENCY NOTICE	<p>Notice of Application, SEPA, and Public Hearing: On April 29, 2021, the City provided notice to property owners within 500 feet of the project site, city departments, Port Gardner neighborhood group, and public agencies that the City received an application, expected to issue a DNS, and that a public hearing had been scheduled. Comments were due by May 13, 2021 (Exhibit 10). The notice was published in the Herald on April 29, 2021 (Exhibit 10). Two notice boards were posted on the project site on April 29, 2021(Exhibit 10).</p> <p>Notice of DNS: On May 17, 2021, the City provided notice to city departments, public agencies, interested parties, and people who commented during the public comment period that a DNS was issued (Exhibit 10)</p>
COMMENTS	<p>Public Comments:</p> <p>Written comments were received from one member of the Public during the public comment period (Exhibit 9). Lyla Anderson commented: "What access to</p>

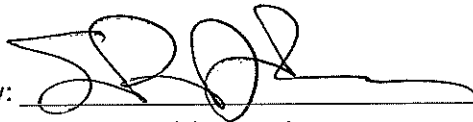
	<p>bathing facilities will be given to Pallet residents? Will EGM share their laundry machines? If residents want plants or garden, will water be available or can donated rain barrels get 'free non-potable water'?"</p> <p>Staff Response: The occupants will have access to showers and laundry service as stated on page 4 of the Management Responsibility Plan. Water is available on-site.</p>
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RECOMMENDED ACTION

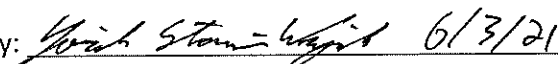
The City of Everett Planning Division recommends the Hearing Examiner **APPROVE** the proposal and modifications with the following conditions:

1. The maximum number of Pallet shelters is limited to 21 plus one staff shelter with the maximum number of occupants of 30 plus one staff member except that after six months the planning director may authorize an increase of the number of Pallet shelters to up to a maximum of 54 plus one staff shelter with a maximum number of 100 occupants.
2. The maximum length of operation of this facility is limited to one year except the planning director may authorize an extension of one year at a time, not to exceed a maximum of five years.
3. Comply with the Management Responsibility as approved by the Community, Planning & Economic Development Department.
4. Comply with the Code of Conduct per EMC 19.08.200.B.12.
5. The Pallet shelters shall maintain minimum setbacks of 40 feet from the north, south, and east lot lines and a minimum separation of six feet between the Pallet shelters.

Prepared by:


Steve Ingalsbe, Land Use Manager

Reviewed by:

 6/3/21
Yorik Stevens-Wajda, Planning Director

EXHIBITS:

1. Staff Report
2. Vicinity Map - GO! Sync 2020 Aerial
3. Site Plan

4. Pallet Shelter Photo
5. Application
6. Management Responsibility Plan
7. DNS Determination
8. Environmental Checklist
9. Public Comments
10. Notice of Application and Hearing
 - a. Affidavit of Posting
 - b. Herald Affidavit of Publication
 - c. Notice of Application, Hearing, and Optional DNS
 - d. Certificate of Mailing